

Message Text

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INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03

NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SP-03 SS-20

USIA-15 ACDA-19 SAJ-01 OMB-01 DRC-01 /122 R

DRAFTED BY EUR/CE GLRUECKERT:RF

APPROVED BY EUR MR. HARTMAN

EUR/CE:SGEORGE

EUR/CE:NCLEDSKY

----- 093098

P R 091648Z MAY 74

FM SECSTATE WASHDC

TO AMEMBASSY BONN PRIORITY

INFO USMISSION BERLIN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

USMISSION NATO

AMEMBASSY PARIS

C O N F I D E N T I A L STATE 095966

E.O. 11652: GDS

TAGS: PGOV, GE, GW, WB

SUBJECT: SOVIET APPROACH ON BRUECKMANN

REF: A. BONN 7234

B. STATE 88911

C. STATE 86788

1. IN CALL ON ASSISTANT SECRETARY HARTMAN MAY 7, SOVIET EMBASSY MINISTER GROMYKO RAISED SOVIET APRIL 26 STATEMENT ON BRUECKMANN (REFTEL C). GROMYKO NOTED THAT STATEMENT HAD NOT BEEN DISCUSSED WITH THE SECRETARY IN GENEVA AS EXPECTED AND EXPRESSED INTEREST IN OBTAINING ASSISTANT SECRETARY'S REACTION. IN SHORT STATEMENT, GROMYKO THEN REITERATED SEVERAL POINTS IN SOVIET MEMO. HE NOTED IN PARTICULAR SOVIET VIEW THAT FEDERAL CONSTITUTIONAL COURT'S (FCC) COMMENTS CONSTITUTE FLAGRANT EFFORT TO UNDERMINE QA, CONFIDENTIAL

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AND ENCOURAGE VIOLATION OF BORDERS BY MAKING IT UNLIKELY

THAT ESCAPEES WOULD EVER BE RETURNED TO GDR, WHICH IS
DETRIMENTAL TO FRG-GDR RELATIONS AND DETENTE.

2. HARTMAN RESPONDED THAT ALLIES FULLY COGNIZANT OF FCC'S
ADVISORY OPINION, UNDERSTAND THEIR OWN RESPONSIBILITIES
UNDER QA AND HAD FULFILLED THEM LONG BEFORE SOVIET STATE-
MENT RECEIVED. IN FACT, WESTERN ALLIES HAD ACTED WELL IN

ADVANCE OF MEETING BETWEEN SECRETARY AND SOVIET FOREIGN
MINISTER IN MOSCOW MENTIONED IN SOVIET STATEMENT. ALLIED
VIEWS THAT FCC NOT COMPETENT TO RULE ON A BERLIN MATTER
WERE MADE KNOWN BOTH IN ALLIED AIDE MEMOIRE TO FRG
FOREIGN MINISTRY, WITH REQUEST VIEWS BE TRANSMITTED TO
FCC AND IN ALLIED COMMUNICATION TO BERLIN SENAT, WHICH
ASKED THAT NO DOCUMENTS CONNECTED WITH BRUECKMANN CASE
BE TRANSMITTED TO FCC. FEDERAL CONSTITUTIONAL COURT'S
RULING, AS SOVIET STATEMENT ITSELF NOTES, REFLECTS
RESERVATIONS EXPRESSED BY ALLIES AND ACCEPTS ALLIED
POSITION THAT FCC CANNOT RULE ON BRUECKMANN APPEAL. WE
UNDERSTAND REVIEW CURRENTLY GOING AHEAD IN BERLIN COURT
BUT WOULD EXPECT THAT ANY RULING BY KAMMERGERICHT WOULD
NOT BE BASED ON FCC COMMENTS. ALLIES, IN SUM, HAVE MADE
THREE POWER VIEWS CLEAR IN CONNECTION WITH BRUECKMANN
CASE AND BELIEVE THESE VIEWS HAVE BEEN FULLY COMPLIED
WITH.

3. GROMYKO RESPONDED BY NOTING THAT VIEWS OF BOTH GOVERN-
MENTS NOW QUITE CLEAR. HE WISHED STRESS, HOWEVER, THAT
AS IN CASE OF FEDERAL ENVIRONMENTAL OFFICE, SOVIET CONCERN
WAS PROMPTED BY CONSIDERATION THAT THERE SHOULD BE NO
VIOLATION OF QA.

4. HARTMAN REPLIED THAT THERE IS IMPORTANT DIFFERENCE
IN THESE TWO MATTERS. WHILE WE IN SUBSTANTIAL AGREEMENT
WITH SOVIETS THAT FCC HAS NO JURISDICTION OVER WEST
BERLIN, WE CONSIDER FEA TO BE ENTIRELY LEGAL AND CONSIST-
ENT WITH QA. WE NONETHELESS HAVE TAKEN VIEW THAT FUTURE
FRG OFFICES IN BERLIN WOULD BE EVALUATED ON WHETHER THEY
WERE POLITICALLY OPPORTUNE AS WELL AS LEGALLY PERMISSIBLE.

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5. EMBASSY MAY BRIEF BONN GROUP ON ABOVE AND, IN CON-
NECTION WITH REFTEL A, SHOULD INDICATE THAT WE DO NOT
BELIEVE THAT ANY FURTHER RESPONSE TO SOVIET STATEMENT
ON BRUECKMANN CASE IS REQUIRED. RUSH

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